

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

CARL BRUMFIELD,

Plaintiff,

v.

CIVIL ACTION NO. 2:04-01104

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER


This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court deny the plaintiff's motion for summary judgment, grant the defendant's motion for judgment on the pleadings, affirm the final decision of the Commissioner, and dismiss this action from the court's docket.

Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge. The court **DENIES** the plaintiff's motion for summary judgment, **GRANTS** the defendant's motion for judgment on the pleadings, **AFFIRMS** the final decision of the Commissioner, and **DISMISSES** this action from the court's docket.

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: October 14, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE